



**Angela Fontana, CPCU**

Regional Counsel  
Property-Casualty Law

Law and Regulation  
Department

November 12, 2002

Ms. Susan Ezalarab, CIE, FLMI  
Director, Bureau of Market Regulation  
Office of the Commissioner of Insurance  
State of Wisconsin  
121 East Wilson Street  
Madison, WI 53707-7873

**RE: Market Conduct Examination  
Allstate Insurance Company**

Dear Ms. Ezalarab:

Thank you for the opportunity to provide OCI with our response to the final report for the above examination. Per your letter dated September 24, 2002, we wish to have OCI include this response on its website as a separate document to the final report.

Set forth below in bold print are the specific recommendations in the report, followed by our comments in regular type.

**RECOMMENDATION #1: Page 4—It is recommended that the company revise form BU9403B (8-99) to comply with s Ins. 4.01 (h), Wis. Adm. Code.**

**RESPONSE:** Our claim practice is that when real property owned and occupied by the insured primarily as a dwelling is partially destroyed but ordered destroyed under a fire ordinance or similar law, it is considered a constructive total loss. Please note that we did not have any policies in effect using this form in Wisconsin during the period of review, and we still do not have any such policies in effect.

**RECOMMENDATION #2: Page 4—It is recommended that the company amend its current Wisconsin Changes Endorsement, CG 01 24 01 93, to reflect the proper sections and/or conditions in the forms listed in this report for the Legal Action Against Us and Transfer of Rights of Recovery Against Others to Us conditions.**

Allstate Insurance Company

2801 Lakeside Dr. Suite 300 Bannockburn, IL 60015 T 847.295.4935 F 847.295.4878 E afontana@allstate.com

**RESPONSE:** We do not believe that the discrepancy in numbering adversely affects the policyholder. CG 01 24 01 93 is an ISO form, and therefore we are unable to amend it. However, we will be revising our independently-filed forms (BU9605, BU9606, BU9607, BU9608, BU9630-1, BU9640 and BU9641) to reflect the appropriate sections and/or conditions. We plan to make the revisions with our next independently-filed forms filing for the BPP policy.

**RECOMMENDATION #3: Page 5—It is recommended that the company implement a procedure to ensure that it files and receives approval to use all forms subject to s. 631.01 (1), Wis. Stat., in order to comply with s. 631.20 (1), Wis. Stat.**

**RESPONSE:** We have communicated the need to file all commercial forms subject to section 631.01 of the Wisconsin Insurance code to the appropriate persons in the company. In addition, we have included language to this effect in our procedure manual.

**RECOMMENDATION #4: Page 5—It is recommended that the company amend its current Wisconsin Changes endorsement, CM 01 05 09 00 to reflect the proper reference to item G. Transfer of Rights of Recovery Against Others to Us in form BU9212 (Ed. 8-89).**

**RESPONSE:** We do not believe that the discrepancy in numbering adversely affects the policyholder. CM 01 05 09 99 is an ISO form, and therefore we are unable to amend it. However, we will be revising our independently-filed form (BU9212) to reflect the appropriate sections and/or conditions. We plan to make the revisions with our next independently-filed forms filing for the Commercial Inland Marine policy.

**RECOMMENDATION #5: Page 5—It is recommended that the company revise the Customizer Business Insurance Policy Named Peril Form BU5560 (Ed 1-96), page 9, number 8. Vandalism and Malicious Mischief, to provide coverage for losses if the building has been vacant or unoccupied for less than 61 days.**

**RESPONSE:** It is our opinion that regulation Ins. 6.76 (3) (e) (2) does not prohibit limiting the vacancy or unoccupancy period to 30 days. The regulation states, in relevant part, that:

(e) Conditions suspending or restricting insurance. Unless otherwise provided in writing added hereto this Company shall not be liable for loss occurring

...

2. while a described building, whether intended for occupancy by

owner or tenant, is vacant or unoccupied beyond a period of sixty consecutive days; or

The phrase “unless otherwise provided in writing” permits insurers to use contract language and terms that are different from subsection (2). Our policy provides in writing that we will “not cover vandalism or malicious mischief if [a] dwelling has been vacant or unoccupied for more than 30 consecutive days immediately prior to the vandalism or malicious mischief.” Our policy deviates from what is stated under regulation Ins. 6.76 (3) (e) (2); however, such deviation is explicitly allowed under the regulation. By allowing insurers to use terms other than that which are stated under regulation Ins. 6.76 (3) (e) (2), the regulation permits the limiting of vacancy or unoccupancy period to 30 days.

While we believe that our current language is in compliance with Wisconsin state law, we have filed a revised form to limit the vacancy or unoccupancy period to 60 days.

**RECOMMENDATION #6: Page 6—It is recommended that the company revise the Cross Suits Endorsement, UEL 19 (Ed 10-86), to not apply to motor vehicle liability claims involving claims involving persons related to the insured in order to comply with s. 632.32 (6) (b) 1. Wis. Stat.**

**RESPONSE:** The intended use of the Cross Suits Endorsement UEL 19 (Ed. 10-86) is to exclude intra-company suits on policies that have multiple named insureds. The exclusion is not used for claims involving persons related to the insured. Although we have currently 18 active Commercial Umbrella Excess policies, none of the policies have the UEL-19 (Ed. 10-86) endorsement.

We have decided to revise the Cross Suits Endorsement, UEL 19 (Ed 10-86) to state that the endorsement does not apply to motor vehicle liability claims involving persons related by blood or marriage to the insured. This revision will be filed at our earliest opportunity.

**RECOMMENDATION #7: Page 6—It is recommended that the company withdraw and discontinue use of the Amendment of the Fellow Employee Exclusion endorsement, form BU1124 (Ed. 1-97), in order to comply with ss. 632.32 (3) (a ) and 102.03(2), Wis. Stats.**

**RESPONSE:** We have decided to withdraw the previously filed and approved Fellow Employee Exclusion endorsement form (BU1124) and will implement ISO form CA 20 56 02 99 as an optional endorsement.

**RECOMMENDATION #8: Page 8—It is recommended that the company revise its homeowners insurance policy forms as detailed in the text of this section of the report in order to comply with ss. 631.95(2)(f), 631.81(1), 631.36(2)(c), and 631.13, Wis. Stats. and s. Ins 6.76 (3), Wis. Adm. Code.**

To address the various parts in the text of this section, we have broken each item down separately followed by our response.

**TEXT**: Section 631.95 (2) (f), Wis. Stat., provides that an insurer may not, under property insurance coverage that excludes coverage for loss or damage to property resulting from intentional acts, deny payment to an insured for a claim based on property loss or damage resulting from an act, or pattern, of abuse or domestic abuse if that insured did not cooperate in or contribute to the creation of the loss or damage and if the person who committed the act or acts that caused the loss or damage is criminally prosecuted for the act or acts. The following forms have one or more exclusions for loss or damage to the property resulting from intentional acts: Standard Homeowner Policy, form AP1; Deluxe Homeowners Policy, form AP2; Standard Select Value Homeowners Policy, form AP148; Deluxe Select Value Homeowners Policy, form AP149; Deluxe Plus Homeowners Policy, form AP337; and Deluxe Country Homeowners Policy, form AP8. The policies must be amended to comply to s. 631.95 (2) (f), Wis. Stat.

**RESPONSE**: The forms that were reviewed during the exam have since been revised to address this issue. The revised forms AP162-2 (this accompanies forms AP1, AP2, AP148, AP149, and AP337) and AP164-2 (this accompanies form AP8) address this issue. The forms have been approved for use by OCI for the above-mentioned policies.

**TEXT**: Section 631.81 (1), Wis. Stat., states that notice of loss should be made as soon as reasonably possible and that failure by the insured to give notice does not invalidate or reduce the claim unless the insurer is prejudiced by the failure to give notice. The following forms, under the Additional Protection section, 2. Credit Card and Check Forgery, state that the insured must give the company immediate written notice: Standard Homeowners Policy, form AP1; Deluxe Homeowners Policy, form AP2; Standard Select Value Homeowner's Policy, form AP148; Deluxe Select Value Homeowners Policy, form AP149; Deluxe Plus Homeowners Policy, form AP337; and Deluxe Country Homeowners Policy, form AP8. This is more restrictive than the statute.

**RESPONSE**: While we believe that our current language is in compliance with Wisconsin state law, we have filed amended forms to state that "When loss is discovered, the insured must give us written notice as soon as reasonably possible."

**TEXT**: Section Ins 6.76 (3), Wis. Adm. Code, provides for authorized clauses to be used in fire, inland marine, and other property insurance forms pursuant to s. 631.23, Wis. Stat. Appropriate liberalization of the prescribed language is permitted. Subsection (3) (e) 2, Wis. Adm. Code, provides that coverage may be suspended or restricted while a described building is vacant or unoccupied beyond a period of 60 consecutive days. The following forms, on page 10 under

8. Vandalism and Malicious Mischief, state that the company will not cover losses to covered property if the building has been vacant or unoccupied for more than 30 consecutive days just before the loss: Deluxe Homeowners Policy, form AP2; Deluxe Select Value Homeowners Policy, form AP149, and Deluxe Plus Homeowners, form AP337; and on page 8 of Deluxe Country Homeowners Policy, form AP8. This language is different than the authorized language.

**RESPONSE:** It is our opinion that regulation Ins. 6.76 (3) (e) (2) does not prohibit limiting the vacancy or unoccupancy period to 30 days. The regulation states, in relevant part, that:

(e) Conditions suspending or restricting insurance. Unless otherwise provided in writing added hereto this Company shall not be liable for loss occurring

2. while a described building, whether intended for occupancy by owner or tenant, is vacant or unoccupied beyond a period of sixty consecutive days; or

The phrase “unless otherwise provided in writing” permits insurers to use contract language and terms that are different from subsection (2), as long as they are added to the policy in writing. Our policy provides in writing that we will “not cover vandalism or malicious mischief if [a] dwelling has been vacant or unoccupied for more than 30 consecutive days immediately prior to the vandalism or malicious mischief.”

While we believe that our current language is in compliance with Wisconsin state law, we have filed amended forms to limit the vacancy or unoccupancy period to 60 days.

**TEXT:** Section 631.36 (2) (c), Wis. Stat., provides that an insurer may cancel a policy that has been in effect for less than 60 days by giving at least 10 days advance notice. Application forms AR113-1 and SAR113-1H contain the following statement, “The company may terminate any insurance bound by mailing to the applicant, at the address herein given, 10 days written notice of rejection of this application.” This statement must be amended to clarify that the cancellation may only be done if notice is given within the first 59 days of the bound date.

**RESPONSE:** We believe that the statement on the applications reviewed by the examiners complies with the law. In addition, our practices with respect to terminating bound coverage comply with the law. We have, however, revised the applications in response to a previous request by OCI. These revised applications have been approved for use by OCI.

**TEXT:** Section 631.13, Wis. Stat., states that no insurance contract may contain any agreement or incorporate any provision not fully set forth in the policy or in an application or other document attached to and made a part of the policy at the time of its delivery. Wisconsin Amendatory Endorsement – AP162-1 under number 11 and Wisconsin Amendatory Endorsement – AP164-1 under number 7, contain the sentence, “However, we will pay for such coverage as stated in Wisconsin state laws.” The specific language from the state laws is not contained in the policy, application, or other attached documents and, therefore, is being incorporated within the policy by reference.

**RESPONSE:** We believe that our language is in compliance with Wisconsin law. We have, however, filed an amended form to incorporate the following language:

However, when the covered building property is partially or wholly destroyed but ordered destroyed under a fire ordinance or similar law, without criminal fault on your part or on the part of your assigns, then the amount of loss shall be taken conclusively to be the policy limits of the policy insuring the property.

**RECOMMENDATION #9: Page 8—It is recommended that the company revise its renters insurance policy forms as detailed in the text of this section of the report in order to comply with ss. 631.95(2)(f), 631.81(1), and 631.36(2)(c), Wis. Stats.**

**RESPONSE:** To address the various parts in the text of this section, we have broken each item down separately followed by our response.

**TEXT:** Section 631.95 (2) (f), Wis. Stat., provides that an insurer may not, under property insurance coverage that excludes coverage for loss or damage to property resulting from intentional acts, deny payment to an insured for a claim based on property loss or damage resulting from an act, or pattern, of abuse or domestic abuse if that insured did not cooperate in or contribute to the creation of the loss or damage and if the person who committed the act or acts that caused the loss or damage is criminally prosecuted for the act or acts. Renters Policy, form AP5, on page 8, number 9 excludes loss or damage to property resulting from intentional acts. The policy must be amended to comply to s. 631.95 (2) (f), Wis. Stat.

**RESPONSE:** The form that was reviewed during the exam has since been revised to address this issue, and has been filed with and approved by OCI for use with the above-mentioned policy.

**TEXT:** Section 631.81 (1), Wis. Stat., states that notice of loss should be made as soon as reasonably possible and that failure by the insured to give notice does not invalidate or reduce the claim unless the insurer is prejudiced by the failure to give notice. The Renters Policy, form AP5, under the Additional

Protection section, 2. Credit Card, Bank Fund Transfer Card, Check Forgery and Counterfeit Money, states that the insured must give the company immediate written notice. This is more restrictive than the statute.

**RESPONSE:** While we believe that our current language is in compliance with Wisconsin state law, we have filed amended forms to provide that “When loss is discovered, the insured must give us written notice as soon as reasonably possible.”

**TEXT:** Section 631.36 (2) (c), Wis. Stat., provides that an insurer may cancel a policy that has been in effect for less than 60 days by giving at least 10 days advance notice. Application forms AR113-1 and SAR113-1H contain the following statement, “The company may terminate any insurance bound by mailing to the applicant, at the address herein given, 10 days written notice of rejection of this application.” This statement must be amended to clarify that the cancellation may only be done if the coverage has been in place for less than 60 days of the bound date.

**RESPONSE:** We believe that the statement on the applications reviewed by the examiners complies with the law. In addition, our practices with respect to terminating bound coverage comply with the law. We have, however, revised the applications in response to a previous request by OCI. These revised applications have been approved for use by OCI.

**RECOMMENDATION #10: Page 9—It is recommended that the company revise its condominium owners insurance policy forms as detailed in the text of this section of the report in order to comply with ss. 631.95(2)(f), 631.81(1), 631.36(2)(c), and 631.13, Wis. Stats.**

**RESPONSE:** To address the various parts in the text of this section, we have broken each item down separately followed by our response.

**TEXT:** Section 631.95 (2) (f), Wis. Stat., provides that an insurer may not, under property insurance coverage that excludes coverage for loss or damage to property resulting from intentional acts, deny payment to an insured for a claim based on property loss or damage resulting from an act, or pattern, of abuse or domestic abuse if that insured did not cooperate in or contribute to the creation of the loss or damage and if the person who committed the act or acts that caused the loss or damage is criminally prosecuted for the act or acts. The Condominium Owners Policy, form AP7, page 8, number 9, excludes loss or damage to property resulting from intentional acts. The policy must be amended to comply to s. 631.95 (2) (f), Wis. Stat.

**RESPONSE:** The form that was reviewed during the exam has since been revised to address this issue, and has been filed with and approved by OCI.

**TEXT**: Section 631.81 (1), Wis. Stat., states that notice of loss should be made as soon as reasonably possible and that failure by the insured to give notice does not invalidate or reduce the claim unless the insurer is prejudiced by the failure to give notice. The Condominium Owners Policy, under the Additional Protection section, 2. Credit Card and Check Forgery, states that the insured must give the company immediate written notice. This is more restrictive than the statute.

**RESPONSE**: While we believe that our current language is in compliance with Wisconsin state law, we have filed amended forms to provide that "When loss is discovered, the insured must give us written notice as soon as reasonably possible."

**TEXT**: Section 631.36 (2) (c), Wis. Stat., provides that an insurer may cancel a policy that has been in effect for less than 60 days by giving at least 10 days advance notice. Application forms AR113-1 and SAR113-1H contain the following statement, "The company may terminate any insurance bound by mailing to the applicant, at the address herein given, 10 days written notice of rejection of this application." This statement must be amended to clarify that the cancellation may only be done if the coverage has been in place for less than 60 days of the bound date.

**RESPONSE**: We believe that the statement on the applications reviewed by the examiners complies with the law. In addition, our practices with respect to terminating bound coverage comply with the law. We have, however, revised the applications in response to a previous request by OCI. These revised applications have been approved for use by OCI.

**TEXT**: Section 631.13, Wis. Stat., states that no insurance contract may contain any agreement or incorporate any provision not fully set forth in the policy or in an application or other document attached to and made a part of the policy at the time of its delivery. Page 2, under number 5, of the Wisconsin Amendatory Endorsement – AP163-1, contains the sentence, "However, we will pay for such coverage as stated in Wisconsin state laws." The specific language from the state laws is not contained in the policy, application, or other attached documents and, therefore, is being incorporated within the policy by reference.

**RESPONSE**: We believe that our language is in compliance with Wisconsin law. We have, however, amended our policy to incorporate the following language:

However, when the covered building property is partially or wholly destroyed but ordered destroyed under a fire ordinance or similar law, without criminal fault on your part or on the part of your assigns, then the amount of loss shall be taken conclusively to be the policy limits of the policy insuring the property.



Our filing of the endorsement containing the above language has been filed and approved by OCI for use with our Condominium Owners Policy.

**RECOMMENDATION #11: Page 10—It is recommended that the company revise its Wisconsin guidelines to reflect its current procedure regarding prior liability insurance and clarify that a carrier which had provided liability insurance to an applicant is considered as prior insurance, in order to ensure compliance with s 628.34(11), Wis. Stat..**

**RESPONSE:** We will modify our guidelines to specify that an applicant will be considered as having prior insurance if he or she can produce a declarations page showing he or she had liability insurance coverage with their previous carrier for the required length of time.

**RECOMMENDATION #12: Page 13—It is recommended that the company develop a procedure to accurately state, with reasonable precision of the facts required by s.631.36, Wis. Stat., the complete reason that a policy is being cancelled or nonrenewed and submit the procedure for approval within 90 days of the adoption of the report in order to ensure compliance with the commissioner's position regarding the use of credit reports in underwriting personal automobile and homeowners policies.**

**RESPONSE:** We will submit the procedure within 90 days of the adoption of the report.

**RECOMMENDATION #13: Page 13—It is recommended that the company include in its nonrenewal notices an offer to continue or renew the policy if the policy is nonrenewed solely because of the termination of the insurance marketing intermediary's contract in order to comply with s. 631.36(4m), Wis. Stat.**

**RESPONSE:** During first part of 2001, our nonrenewal notices were revised to include an offer to continue or renew the policy if the policy is nonrenewed solely because of the termination of the insurance marketing intermediary's contract. Such nonrenewal letters include the following language: "Your agent is no longer affiliated with Allstate. If you wish to continue your policy with Allstate, please send a written request to the address shown above prior to the nonrenewal date and time indicated on this letter."

**RECOMMENDATION #14: Page 14—It is recommended that the company develop and implement a program to verify that the agents submitting applications are duly listed with the company in order to ensure compliance with s. Ins 6.57 (5), Wis. Adm. Code, and submit a summary of the program to the Commissioner within 90 days of the adoption of this report.**

**RESPONSE:** We will submit a summary of the program within 90 days of the adoption of the report.

**RECOMMENDATION #15: Page 15—It is recommended that the company submit a plan to promptly reimburse its insureds' deductibles when collecting installment payments from negligent parties in order to make its insureds whole and to comply with the Wisconsin Supreme Court decision, Rimes v. State Farm Mutual Automobile Insurance Company, 106 Wis. 2d 263.**

**RESPONSE:** We will submit a plan within 90 days of the adoption of this report.

**RECOMMENDATION #16: Page 15—In order to document its claim files, it is recommended that the company implement procedures that ensure a written claim denial is sent and documented in the claim file promptly after the claim is verbally denied.**

**RESPONSE:** We believe our practice currently in place, which includes verbal denials (accompanied by proper file documentation) or written denials as warranted and/or requested by the involved party, is appropriate and in compliance with s. Ins 6.11 (3) (a) 7, Wis. Adm. Code. Nonetheless, we have decided to provide written denials for future first and third party claims.

**RECOMMENDATION #17: Page 15—It is recommended that the company include interest on claims that are not paid within 30 days of receipt of documentation in order to comply with s. 628.46, Wis. Stat.**

**RESPONSE:** It is our general practice to include interest on claims that are not paid within 30 days of receiving the necessary documentation. While we believe our current practice complies with state law, we will re-communicate this to all employees to ensure compliance on each payment, including those for deductible reimbursement.

**RECOMMENDATION #18: Page 18—It is recommended that the company file notices of termination of appointment of its agents prior to or within 30 days of termination with the commissioner in order to ensure compliance with s. Ins 6.57 (2), Wis. Adm. Code.**

**RESPONSE:** We believe we are currently filing notices within this time period.

### **OTHER ITEMS**

In addition to the above items regarding the recommendations, we wish to note that Allstate is licensed in Texas. A sentence in the introduction incorrectly states that "[Allstate] operates on a non-admitted basis in Texas."

Ms. Susan Ezalarab  
November 12, 2002  
Page 11

Thank you for the opportunity to provide our comments. We also wish to thank you for your cooperativeness and reasonableness during discussions throughout the entire process.

Sincerely,

ALLSTATE INSURANCE COMPANY

Angela Fontana